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10/089,632	07/30/2002	Hakki Riza Kamman	2760/1G035US1	4516

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EXAMINER
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3689	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 July 2002*.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.
   4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1-21* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a)☐ All   b)☐ Some * c)☒ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date *30 July 2002*.
4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____ .

DETAILED ACTION

Information Disclosure Statement

1.   The Information Disclosure Statement filed **30 July 2002** has been considered.

Initialed copy of the Form 1449 is enclosed herewith.

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3.   **Claims 3 and 11** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification of the invention merely recites that "artificially intelligent software" is used. However there is no mention of what type of software this phrase entails? How does this software perform? What does this software do? What is considered "artificial"?

4.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5.   **Claims 3, 7, 11, 16 and 19** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6.   **Claims 3 and 11** state "artificially intelligent software routine" is used. However, there is a lack of clarity as to what is "artificially intelligent" and how it applies to software.

7.   **Claims 7 and 16** state "the method steps are performed in real-time". However, these claims are unclear as to what or which method steps are performed in real time.

8.   **Claim 19** states "receiving at the server purchase transaction details concerning an item to be purchased, the item to be purchased having a cost to the customer". This limitation as written is confusing.   Is this "cost" the fee charged to the customer ultimately? Is this information inputted into the server in some way? Does the customer input the information? Are these details and the cost obtained from another computer?

Claim Rejections - 35 USC § 102

9.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10.   **Claims 1-21** are rejected under 35 U.S.C. 102(e) as being anticipated by **Pool et**

al. (US 6, 460, 020 A1) (hereinafter 'Pool").

11.   **With regard to claim 1:** Pool discloses:

a) obtaining purchase transaction details concerning an item to be purchased;

(col. 7, lines 5- 67; col. 8, lines 45-64: information is available for international

transactions such as weight calculation, calculations for packaging, shipping,

taxes, duties and insurance)

b) selecting a harmonized code for shipping the item to a particular destination by

analyzing at least a portion of the purchase transaction details; (col. 4, lines 5-11:

product codes from harmonized tariff tables chosen; methods of calculating

duties and taxes also obtained)

c) determining a tariff due by applying the selected harmonized code; (col. 4,

lines 5-11: product codes from harmonized tariff tables chosen; methods of

calculating duties and taxes also obtained; col. 7, lines 5- 67; col. 8, lines 45-64:

information is available for international transactions such as weight calculation,

calculations for packaging, shipping, taxes, duties and insurance based on

selected product; col. 7, lines 28-42 - when customer enters   destination

information into the system, "this information in conjunction with the commodity

code triggers the particular calculations for packaging, shipping, taxes, duties,

insurance etc. of the rest of+ the transaction process") and

d) reporting the tariff due through the distributed computer network. (col. 8, line

45 to col. 9, line 6: summation of duties, sales taxes and transport expenses as

well as other costs within the system and made available to potential customer

on line; col. 7, lines 28-42 - when customer enters destination information into

the system, "this information in conjunction with the commodity code triggers the

particular calculations for packaging, shipping, taxes, duties, insurance etc. of the

rest of the transaction process")

12.   **With regard to claim 2:** Pool teaches the selecting step includes searching

through a tariff schedule of the particular destination and identifying a harmonized code

that best fits item descriptors included in the purchase transaction details. (col. 4, lines

5-11: product codes from harmonized tariff tables chosen based on product to be

purchased; methods of calculating duties and taxes also obtained)

13.   **With respect to claims 3 and 11:** Pool teaches the selecting step comprises

using an artificially intelligent software routine. (col. 3, line 60-col. 4, line 31: computer

databases and systems used to carry out transaction; col. 7, lines 28-42 - when

customer enters destination information into the system, "this information in conjunction

with the commodity code triggers the particular calculations for packaging, shipping,

taxes, duties, insurance etc. of the rest of the transaction process")

14.   **With regards to claims 4 and 13:** Pool teaches the additional steps of

generating an invoice, an airway bill and a packing list from the purchase transaction

details and providing same through the distributed computer network. (col. 8, line 45 to

col. 9, line 6: summation of duties, sales taxes and transport expenses as well as other

costs within the system and made available to potential customer on line; col. 10, lines

37-65; col. 11, lines 1-9 – invoice is created as well as packing list, government release papers; all necessary documents completed by system)

15.   **With regards to claims 5 and 14:** Pool teaches the purchase transaction details include the cost of the item, the freight for shipping the item to the particular destination, and an item description. (col. 7, lines 5- 67; col. 8, lines 45-64: information is available for international transactions such as weight calculation, calculations for packaging, shipping, taxes, duties and insurance; col. 8, line 45 to col. 9, line 6: summation of duties, sales taxes and transport expenses as well as other costs within the system and made available to potential customer on line; col. 10, lines 37-65; col. 11, lines 1-9 – invoice is created as well as packing list, government release papers; all necessary documents completed by system)

16.   **With regards to claims 6 and 15:** Pool teaches the method steps are performed by a programmed computer connected to the distributed computer network. (col. 3, line 60-col. 4, line 31: computer databases and systems used to carry out transaction)

17.   **With regards to claims 7 and 16:** Pool teaches the method steps are performed in real-time. (col. 6, lines 4-19: currency conversion done in "real time")

18.   **With regards to claims 8 and 17:** Pool teaches reporting step includes providing the tariff due in the local currency. (col. 4, lines 32-43 - "The system is set up so any or all countries of customers can be linked to any language and prices converted to any currency")

19.   **With regards to claims 9 and 18:** Pool teaches the reporting step further includes providing the tariff due in United States currency. ((col. 4, lines 32-43 - "The

system is set up so any or all countries of customers can be linked to any language and prices converted to any currency")

20. **With regard to claim 10:** Pool teaches:

a) obtaining purchase transaction details concerning an item to be purchased; (col. 7, lines 5- 67; col. 8, lines 45-64: information is available for international transactions such as weight calculation, calculations for packaging, shipping, taxes, duties and insurance; col. 8, line 45 to col. 9, line 6: summation of duties, sales taxes and transport expenses as well as other costs within the system and made available to potential customer on line; col. 10, lines 37-65; col. 11, lines 1-9 – invoice is created as well as packing list, government release papers; all necessary documents completed by system)

b) processing the purchase transaction details to thereby select a harmonized code for shipping the item to a prescribed destination at a minimum applicable tariff rate (col. 4, lines 5-11: product codes from harmonized tariff tables chosen; methods of calculating duties and taxes also obtained; col. 7, lines 5- 67; col. 8, lines 45-64: information is available for international transactions such as weight calculation, calculations for packaging, shipping, taxes, duties and insurance based on selected product and destination country)

c) determining a tariff due by applying the processed harmonized code; (col. 4, lines 5-11: product codes from harmonized tariff tables chosen; methods of calculating duties and taxes also obtained; col. 7, lines 28-42 - when customer enters destination information into the system, "this information in conjunction

with the commodity code triggers the particular calculations for packaging, shipping, taxes, duties, insurance etc. of the rest of the transaction process") and

d) reporting the tariff due through the distributed computer network. (col. 3, line 60-col. 4, line 31: computer databases and systems used to carry out transaction)

21.   **With regard to claim 12:** Pool teaches the processing step includes searching through a tariff schedule of the particular destination and identifying a harmonized code that best fits item descriptors included in the purchase transaction details. (col. 4, lines 5-11: product codes from harmonized tariff tables chosen; methods of calculating duties and taxes also obtained)

22.   **With regard to claim 19:** Pool teaches:

a) receiving at the server purchase transaction details concerning an item to be purchased, the item to be purchased having a cost to the customer; (col. 7, lines 5- 67; col. 8, lines 45-64: information is available for international transactions such as weight calculation, calculations for packaging, shipping, taxes, duties and insurance; col. 8, line 45 to col. 9, line 6: summation of duties, sales taxes and transport expenses as well as other costs within the system and made available to potential customer on line; col. 10, lines 37-65; col. 11, lines 1-9 – invoice is created as well as packing list, government release papers; all necessary documents completed by system)

b) selecting a harmonized code for shipping the item to a particular destination by analyzing at least a portion of the purchase transaction details; (col. 4, lines 5-11:

product codes from harmonized tariff tables chosen; methods of calculating duties and taxes also obtained; col. 7, lines 5- 67; col. 8, lines 45-64: information is available for international transactions such as weight calculation, calculations for packaging, shipping, taxes, duties and insurance based on selected product and destination country)

c) automatically determining a tariff due by applying the selected harmonized code; (col. 4, lines 5-11: product codes from harmonized tariff tables chosen; methods of calculating duties and taxes also obtained; col. 7, lines 28-42 - when customer enters destination information into the system, "this information in conjunction with the commodity code triggers the particular calculations for packaging, shipping, taxes, duties, insurance etc. of the rest of the transaction process")

d) providing to the customer a total amount due for the item, the total amount including the tariff due and the cost to the customer; col. 8, line 45 to col. 9, line 6: summation of duties, sales taxes and transport expenses as well as other costs within the system and made available to potential customer on line; col. 10, lines 37-65; col. 11, lines 1-9 – invoice is created as well as packing list, government release papers; all necessary documents completed by system) and

e) receiving at the server payment of the total amount due. (col. 11, lines 35-53 – customer pays for taxes, transport and insurance via credit card)

23.   **With regard to claim 20:** Pool teaches:

a) obtaining details concerning the item; (col. 5, lines 34-67: product selected from catalog; pictures are provided and accompanied by description of product)

b) selecting a harmonized code for shipping the item to a prescribed destination by analyzing at least a portion of the obtained details; (col. 4, lines 5-11: product codes from harmonized tariff tables chosen; methods of calculating duties and taxes also obtained; col. 7, lines 5- 67; col. 8, lines 45-64: information is available for international transactions such as weight calculation, calculations for packaging, shipping, taxes, duties and insurance based on selected product and destination country)

c) determining a tariff due by applying the selected harmonized code; (col. 4, lines 5-11: product codes from harmonized tariff tables chosen; methods of calculating duties and taxes also obtained; col. 7, lines 5- 67; col. 8, lines 45-64: information is available for international transactions such as weight calculation, calculations for packaging, shipping, taxes, duties and insurance based on selected product and destination country; col. 7, lines 28-42 - when customer enters destination information into the system, "this information in conjunction with the commodity code triggers the particular calculations for packaging, shipping, taxes, duties, insurance etc. of the rest of the transaction process") and

d) reporting the tariff due. (col. 8, line 45 to col. 9, line 6: summation of duties, sales taxes and transport expenses as well as other costs within the system and made available to potential customer on line; col. 10, lines 37-65; col. 11, lines 1-

9 – invoice is created as well as packing list, government release papers; all

necessary documents completed by system)

24.   **With regard to claim 21:** Pool teaches the details utilized for selecting the

harmonized code are selected from the group consisting of: product name, product

description, percentages of ingredients in the product, product group, product category,

bar code, machine readable code, product class, and material description. (col. 4, lines

5-11: product codes from harmonized tariff tables chosen)

Furthermore, the data identifying types of harmonized code is non-functional

descriptive data.

When presented with a claim comprising descriptive material, an Examiner must

determine whether the claimed nonfunctional descriptive material should be given

patentable weight. The Patent and Trademark Office (PTO) must consider all claim

limitations when determining patentability of an invention over the prior art. *In re Gulack,*

703 F.2d 1381, 1385, 217 USPQ 401,404 (Fed. Cir. 1983). The PTO may not disregard

claim limitations comprised of printed matter. *See Gulack,* 703 F.2d at 1384-85,217

USPQ at 403; *see also Diamond v. Diehr,* 450 U.S. 175, 191,209 USPQ 1, 10 (1981).

However, the examiner need not give patentable weight to descriptive material absent a

new and unobvious functional relationship between the descriptive material and the

substrate. See *In re Lowry,* 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir.

1994); *In re Ngai,* 367 F.3d 1336, 1338, 70 USPQ2d 1862, 1863-64 (Fed. Cir. 2004).

Thus, when the prior art describes all the claimed structural and functional relationships

between the descriptive material and the substrate, but the prior art describes a different

descriptive material than the claim, then the descriptive material is nonfunctional and will not be given any patentable weight. That is, such a scenario presents no new and unobvious functional relationship between the descriptive material and the substrate.

The Examiner asserts that the data identifying types of harmonized code adds little, if anything, to the claimed acts or steps and thus do no serve as limitations on the claims to distinguish over the prior art. MPEP 2106IV b 1(b) indicates that "nonfunctional descriptive material" is material "that cannot exhibit any functional interrelationship with the way the steps are performed". Any differences related merely to the meaning and information conveyed through data, which does not explicitly alter or impact the steps is non-functional descriptive data. Except for the meaning to the human mind, the data identifying the selectable options and the information displayed upon selection of the options does not functionally relate to the substrate and thus does not change the steps of the method as claimed. The subjective interpretation of the data does not patentably distinguish the claimed invention.

CONCLUSION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Heidi Riviere whose telephone number is 571-270-1831. The examiner can normally be reached on Monday-Friday 7:30am-5:00pm EST.; Alternative Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on 571-272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Name: Heidi Riviere   **Title: Examiner**

Signature: **Date:**

/Dennis Ruhl/

Primary Examiner, Art Unit 3689